

INSURANCE DIVISION[191]

Notice of Intended Action

Proposing rule making related to review of rules and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 29, “Continuation Rights Under Group Accident and Health Insurance Policies,” Chapter 35, “Accident and Health Insurance,” Chapter 36, “Individual Accident and Health—Minimum Standards and Rate Hearings,” Chapter 71, “Small Group Health Benefit Plans,” Chapter 73, “Health Insurance Purchasing Cooperatives,” Chapter 74, “Health Care Access,” Chapter 75, “Iowa Individual Health Benefit Plans,” Chapter 76, “External Review,” Chapter 79, “Prior Authorization—Prescription Drug Benefits,” Chapter 80, “Well-Child Care,” Chapter 81, “Postdelivery Benefits and Care,” and Chapter 85, “Regulation of Navigators,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 505.8, 505.21, 509.13, 509A.14, 513B.1, 513B.18, 513C.12, 514C.4, 514C.23, 514C.28, 514C.34, 514D.3, 514J.117 and 514K.1 and 1993 Iowa Acts, Senate File 380 [chapter 158].

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 509, 509A, 513B, 513C, 514C, 514D, 514J and 514K; Iowa Code sections 505.21, 509B.3 and 509B.5; and 1993 Iowa Acts, chapter 158.

Purpose and Summary

The proposed amendments are a result of the Division’s review of rules. These amendments generally update the chapters by removing duplicative definitions and unnecessary language, clarifying procedures, correcting statute references, conforming to current Iowa Code language, and reflecting current practices.

Chapter 73 is proposed to be rescinded and reserved. Health insurance purchasing cooperatives (HIPCs) were created by 1993 Iowa Acts, chapter 158. HIPCs preceded the Affordable Care Act (ACA), which was enacted in 2010. The ACA now provides health insurance options to individuals and small groups, rendering HIPCs obsolete as a mechanism to purchase health insurance.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received no later than 12 noon on November 15, 2021. Comments should be directed to:

Tracy Swalwell
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6549
Email: tracy.swalwell@iid.iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

November 15, 2021
9 a.m.

Via conference call

A conference call number will be available prior to the hearing on the Division's web page at iid.iowa.gov/hearings. Persons wishing to attend the hearing may also contact Tracy Swalwell for hearing information. Persons who wish to make oral comments at the public hearing must submit a request to Tracy Swalwell prior to the public hearing to facilitate an orderly hearing. Persons will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy Swalwell and advise of specific needs.

The public hearing will be canceled without further notice if no public hearing is requested by 12 noon on November 10, 2021.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **191—29.1(509B)**, definition of "COBRA," as follows:

"COBRA" means ~~Title X of the federal Consolidated Omnibus Budget Reconciliation Act (P.L. 99-272), as amended by the Tax Reform Act of 1986 (P.L. 99-514), 29 U.S.C. §1161, that may allow an employee or member to temporarily keep health coverage.~~

ITEM 2. Amend rule **191—35.6(509)**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~509.6~~ **509.5**.

ITEM 3. Adopt the following **new** implementation sentence in rule **191—35.7(509)**:

This rule is intended to implement Iowa Code section 509.6.

ITEM 4. Amend subrule 35.8(1) as follows:

35.8(1) Purpose. The purpose of this rule is to authorize the electronic delivery of accident and health group insurance certificates in an efficient manner by insurers and group policyholders, while guaranteeing that individual plan members still receive the important information contained in such

group insurance certificates, as required by Iowa Code section ~~509.3(2)~~, 509.3(1) “b,” and as allowed by the uniform electronic transactions Act, Iowa Code chapter 554D.

ITEM 5. Amend subrule 35.8(3), introductory paragraph, as follows:

35.8(3) *Electronic delivery—insurance companies.* The insurer will be deemed to comply with the requirements of Iowa Code section ~~509.3(2)~~ 509.3(1) “b” if the group insurance certificate is delivered to the group policyholder electronically and if:

ITEM 6. Amend subrule 35.8(4), introductory paragraph, as follows:

35.8(4) *Electronic delivery—group policyholders.* The group policyholder will be deemed to comply with the requirements of Iowa Code section ~~509.3(2)~~ 509.3(1) “b” if the group insurance certificate is delivered to the individual plan member electronically and if:

ITEM 7. Amend rule **191—35.20(509A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 509A ~~and 2003 Iowa Acts, chapter 83.~~

ITEM 8. Amend rule **191—35.34(509A)**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 509 and 514C ~~and 1999 Iowa Acts, Senate File 276.~~

ITEM 9. Amend rule 191—35.36(514K) as follows:

191—35.36(514K) Purpose. These rules implement Iowa Code ~~Supplement~~ section 514K.1(2) which requires the commissioner and the director of public health to annually publish a consumer guide. These rules apply to all carriers providing health insurance coverage in the individual, small employer group and large group markets that utilize a preferred provider arrangement and to all health maintenance organizations.

ITEM 10. Amend subrule 35.37(3) as follows:

35.37(3) Each health maintenance organization and insurer using a preferred provider organization health network shall transmit the requested information by electronic mail ~~or diskette~~ in a format prescribed by the division.

ITEM 11. Amend rule **191—35.38(514C)**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ section 514K.1(2).

ITEM 12. Amend subrule **35.40(2)**, definition of “Autism spectrum disorders,” as follows:

“*Autism spectrum disorders*” means the following neurological disorders as defined under the following diagnostic classes within the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, edition ~~DSM-IV-TR~~ DSM-5:

1. Autistic disorders. Diagnostic code 299.00.
2. Rett’s Disorder. Diagnostic code 299.80.
3. Childhood Disintegrative Disorder. Diagnostic code 299.10.
4. Asperger’s Disorder. Diagnostic code 299.80.
5. Pervasive Developmental Disorder NOS. Diagnostic code 299.80.

ITEM 13. Amend paragraph **36.7(1)“j”** as follows:

j. Insurers issuing policies which provide hospital or medical expense coverage on an expense-incurred or indemnity basis other than incidentally, to a person(s) eligible for Medicare by reason of age, shall provide to the policyholder a Medicare supplement buyer’s guide in the form of the booklet “~~Guide to Health Insurance for People with Medicare~~” “Choosing a Medigap Policy: A Guide to Health Insurance for People with Medicare” developed jointly by the National Association of Insurance Commissioners and the ~~Health Care Financing Administration~~ Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services. Delivery of the buyer’s guide shall be made whether or not the policy qualifies as a “Medicare supplement coverage” in accordance with 191—Chapter 37. Except in the case of direct response insurers, delivery of the buyer’s guide shall be made at the time of application and acknowledgment of receipt of certification of delivery of

the buyer's guide shall be provided to the insurer. Direct response insurers shall deliver the buyer's guide upon request but not later than at the time the policy is delivered.

ITEM 14. Amend paragraph **36.7(1)“k”** as follows:

k. Outlines of coverage delivered in connection with policies defined in this chapter as Hospital Confinement Indemnity, Specified Disease or Limited Benefit Health Insurance Coverages to persons eligible for Medicare by reason of age shall contain, in addition to the requirements of 36.7(6), 36.7(10) and 36.7(12), the following language which shall be printed on or attached to the first page of the outline of coverage:

This policy IS NOT A MEDICARE SUPPLEMENT policy. If you are eligible for Medicare review the Medicare Supplement Buyer's Guide Choosing a Medigap Policy: Guide to Health Insurance for People with Medicare, issued by the Centers for Medicare and Medicaid Services, available from the company.

ITEM 15. Amend subrule 36.7(8), introductory paragraph, as follows:

36.7(8) *Disability income protection coverage (outline of coverage).* An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of ~~36.6(6)~~ 36.6(7) of this chapter. The items included in the outline of coverage must appear in the sequence prescribed:

ITEM 16. Amend subrule 36.7(9), introductory paragraph, as follows:

36.7(9) *Accident only coverage (outline of coverage).* An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of ~~36.6(7)~~ 36.6(8). The items included in the outline of coverage must appear in the sequence prescribed:

ITEM 17. Amend rule **191—36.20(514D,83GA,SF2201)**, parenthetical implementation statute, as follows:

191—36.20(514D,83GA,SF2201 505) Rate hearings.

ITEM 18. Amend paragraph **36.20(1)“b”** as follows:

b. Applicability. This rule applies to all individual health insurance policies issued or to be issued in Iowa except those excluded by ~~2010 Iowa Acts, Senate File 2201, section 8(4A).~~ Iowa Code section 505.19(5)“a.”

ITEM 19. Amend subrule **36.20(2)**, definitions of “Carrier,” “Filing” and “Health insurance,” as follows:

“*Carrier*” shall mean a health insurance carrier licensed to do business in the state as used in ~~2010 Iowa Acts, Senate File 2201, section 8~~ Iowa Code section 505.19.

“*Filing*” shall mean a rate filing presented to the division for approval pursuant to this chapter; and Iowa Code ~~chapter chapters 505 and 514D and 2010 Iowa Acts, Senate File 2201,~~ through the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing.

“*Health insurance*” shall mean the same as “health insurance” is used in ~~2010 Iowa Acts, Senate File 2201, section 8,~~ Iowa Code section 505.19 and excludes the types of insurance listed in ~~2010 Iowa Acts, Senate File 2201, section 8(4A).~~ Iowa Code section 505.19(5)“a.”

ITEM 20. Amend subrule 36.20(7) as follows:

36.20(7) *Confidentiality.* Information submitted to the division as part of a filing and as part of the hearing process shall constitute a public record under Iowa Code chapter 22 except as provided in Iowa Code ~~section sections 505.17 and 2010 Iowa Acts, Senate File 2201, section 6~~ 505.19.

ITEM 21. Amend rule **191—36.20(514D)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~chapter chapters 505 and 514D and 2010 Iowa Acts,~~ Senate File 2201.

ITEM 22. Amend rule 191—71.10(513B) as follows:

191—71.10(513B) Creditable coverage. For purposes of this chapter, creditable coverage shall have the same definition as ~~1997 Iowa Acts, House File 701, section 10~~ Iowa Code section 513B.2.

ITEM 23. Amend rule **191—71.22(514C)**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 513B and 514C ~~and 1999 Iowa Acts, Senate File 276.~~

ITEM 24. Amend rule **191—71.26(513B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 513B.18.

ITEM 25. Rescind and reserve **191—Chapter 73.**

ITEM 26. Amend rule 191—74.6(505), introductory paragraph, as follows:

191—74.6(505) Violation of chapter. A violation of this chapter may be reported to the ~~consumer and legal affairs~~ market regulation bureau of the division. The division, upon finding that the employer has failed to offer an eligible employee access to health care or health insurance, may do any of the following:

ITEM 27. Amend rule 191—75.2(513C) as follows:

191—75.2(513C) Definitions. As used in this chapter:

“Eligible resident” means an individual who has been legally domiciled in this state for a period of 60 days. For purposes of this chapter, legal domicile is established by living in this state and obtaining an Iowa motor vehicle operator’s license, registering to vote in Iowa, or filing an Iowa income tax return. A child is legally domiciled in this state if the child lives in this state and if at least one of the child’s parents or the child’s guardian is legally domiciled in this state for a period of 60 days. A person with a developmental disability or another disability which prevents the person from obtaining an Iowa motor vehicle operator’s license, registering to vote in Iowa, or filing an Iowa income tax return, is legally domiciled in this state by living in the state for 60 days.

“Insured group health plan” as that term is referenced in Iowa Code section 513C.3 includes a health benefit plan offered directly through an employer with two or more employees and a plan offered through an employer with two or more employees under a group discretionary trust or association plan.

“Risk characteristic” means the health status, claims experience or any similar characteristic related to the health status or experience of an individual under a health benefit plan.

“Risk load” means the percentage above the applicable base premium rate that is charged by a carrier to an individual to reflect the risk characteristics of such individual.

Other terms shall be defined pursuant to ~~1995 Iowa Acts, chapter 5~~ Iowa Code chapter 513C.

ITEM 28. Amend rule 191—75.16(514C) as follows:

191—75.16(513C,514C) Diabetic coverage. All carriers shall provide benefits in the standard health benefit plan for the cost associated with equipment, supplies, and education for the treatment of diabetes pursuant to Iowa Code section ~~514C.14~~ 514C.18.

ITEM 29. Amend rule **191—75.16(514C)**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 513C and 514C ~~and 1997 Iowa Acts, House File 701; 1995 Iowa Acts, chapter 204, section 14; 1996 Iowa Acts, chapter 1219, section 52; and 1999 Iowa Acts, Senate File 276.~~

ITEM 30. Strike “e-mail” wherever it appears in **191—Chapter 76** and insert “email” in lieu thereof.

ITEM 31. Strike “E-mail” wherever it appears in **191—Chapter 76** and insert “Email” in lieu thereof:

ITEM 32. Amend rule 191—76.1(514J) as follows:

191—76.1(514J) Purpose. This chapter is intended to implement Iowa Code chapter 514J and the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148 as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, which amends the Public Health Service Act and adopts, in part, new 42 U.S.C. Section 300gg-19. These rules address issues which are unique to the external review process in this state and provide a uniform process for covered persons of health carriers providing health insurance coverage or the covered persons’ authorized representatives to request and receive an external review of adverse determinations and final adverse determinations as defined in Iowa Code sections 514J.102(1) and 514J.102(18) and as referenced in Iowa Code section 514J.109(1). Health carriers defined in Iowa Code section 514J.102(23), and included in paragraph 76.2(2) “c” are subject to these rules.

ITEM 33. Amend subrule 76.2(1) as follows:

76.2(1) The rules contained in this chapter shall apply to any health benefit plan as defined in Iowa Code section ~~514J.102(19)~~ 514J.102 other than those excluded under Iowa Code section 514J.103(2), for any plan that is offered or issued by a health carrier as defined in Iowa Code section ~~514J.102(23)~~ 514J.102, if the plan was issued in Iowa, and if the external review request is filed with the commissioner on or after July 1, 2011.

ITEM 34. Amend subrule 76.4(2) as follows:

76.4(2) Requests for expedited review may be made orally to initiate the process, and the commissioner may require submission of additional documentation such as physician certifications ~~or~~ and medical information releases as is deemed practicable under the time constraints.

ITEM 35. Amend subrule 76.9(6) as follows:

76.9(6) A list of certified independent review organizations shall be maintained by the commissioner and shall be available through the ~~Web site~~ website of the Iowa insurance division, ~~www.iid.state.ia.us~~ iid.iowa.gov.

ITEM 36. Amend **191—Chapter 76**, Appendix A, unnumbered paragraph “7,” as follows:
You can obtain a copy of the External Review Request Form from: the Iowa Insurance Division, 1963 Bell Avenue, Suite 100, Des Moines, Iowa 50315; telephone 877-955-1212 or 515-654-6600; facsimile 515-654-6500; ~~Web site~~ www.iid.iowa.gov ~~website~~ iid.iowa.gov.

ITEM 37. Amend **191—Chapter 76**, Appendix B, Section 4, as follows:

SECTION 4. SIGNATURE AND RELEASE OF MEDICAL RECORDS

To appeal your health carrier’s denial, you must sign and date this external review request form and consent to the release of medical records.

I, _____, hereby request an external review. I attest that the information provided in this application is true and accurate to the best of my knowledge. I authorize my insurance company and my health care providers to release all relevant medical or treatment records to the independent review organization ~~and the Iowa Insurance Division~~. I understand that the independent review organization ~~and the Iowa Insurance Division~~ will use this information to make a determination on my external review and that the information will be kept confidential and will not be released to anyone else. This release is valid for one year.

Signature of covered person/patient or legal representative (parent, guardian, conservator or

other – please specify)

Date:

ITEM 38. Amend **191—Chapter 76**, Appendix E, numbered paragraph “6,” as follows:

6. Set forth a description of fees to be charged by the independent review organization for external reviews.

ITEM 39. Strike “as amended by 2015 Iowa Acts, House File 632, section 9” wherever it appears in **191—Chapter 79**.

ITEM 40. Amend subrule 79.3(2) as follows:

79.3(2) Posting of prior authorization form. The approved prior authorization form shall be made available electronically on the ~~Web site~~ website of the division and on the ~~Web site~~ website of each health carrier, health benefit plan or pharmacy benefits manager that uses the form. Health carriers, health benefit plans and pharmacy benefits managers shall allow health care providers to submit a prior authorization request electronically.

ITEM 41. Amend **191—Chapter 80** as follows:

*INSURANCE COVERAGE FOR
PEDIATRIC PREVENTIVE SERVICES*

CHAPTER 80
WELL-CHILD CARE

191—80.1(505,514H) Purpose. The purpose of this chapter is to ~~implement Iowa Code section 514H.7A, as amended by 1993 Iowa Acts, House File 236, thereby setting~~ set forth those requirements deemed appropriate by the commissioner for the general provision of coverage for benefits for routine well-child care.

191—80.2(505,514H) Applicability and scope. This chapter shall apply to all group accident and sickness insurance, group nonprofit health service plans and prepaid group plans of health maintenance organizations delivered or issued for delivery in this state after March 1, 1993. However, this chapter shall not apply to those basic benefit policies approved under Iowa Code chapter ~~514H~~ 513C.

191—80.3(505,514H) Effective date. This chapter shall be effective on July 2, 1993, and shall be applicable to all new filings of group accident and sickness insurance, group nonprofit health service plans and prepaid group plans of health maintenance organizations made after that date and all other policies and contracts covered by this chapter delivered or issued for delivery prior to July 2, 1993, upon the date of renewal.

191—80.4(505,514H) Policy definitions. No group accident and sickness insurance, group nonprofit health service plan or prepaid group plan of a health maintenance organization delivered or issued for delivery in this state shall contain definitions respecting the matters set forth unless such definitions comply with the requirements of this rule.

80.4(1) “Well-child care” means pediatric preventive services appropriate to the age of a child from birth to age seven as defined by current Recommendations for Preventive Pediatric Health Care of the American Academy of Pediatrics. The Recommendations may be obtained by contacting the American Academy of Pediatrics at 141 Northwest Point Boulevard, P.O. Box 927, Elk Grove Village, Illinois 60009-0927. Pediatric preventive services shall include, at a minimum, a history and complete physical examination as well as developmental assessment, anticipatory guidance, immunizations, vision and hearing screening, and laboratory services including, but not limited to, screening for lead exposure as well as blood levels.

80.4(2) “*Developmental assessment*” and “*anticipatory guidance*” mean the services described in the Guidelines for Health Supervision II, published by and obtainable from the American Academy of Pediatrics.

191—80.5(505,514H) Benefit plan.

80.5(1) Every group accident and sickness insurance policy, group nonprofit health service plan or prepaid group plan of a health maintenance organization shall provide benefits for well-child care for any child covered by the policy or contract at approximately the following age intervals: birth, 2 weeks, 2 months, 4 months, 6 months, 9 months, 12 months, 15 months, 18 months, 24 months or two years, three years, four years, five years and six years.

80.5(2) Minimum benefits may be limited to one visit payable to one provider for all services provided at each visit cited in this rule.

80.5(3) Benefits shall be subject to any policy provisions which apply to other services covered by such policy, except as set forth in 80.5(5).

80.5(4) This rule does not apply to disability income, specified disease, Medicare supplement, hospital indemnity, long-term care or trip/travel policies.

80.5(5) The provisions of this benefit will supersede any deductible requirements.

These rules are intended to implement Iowa Code ~~sections~~ section 505.8 and ~~514H.7A~~.

ITEM 42. Amend rule 191—81.3(514C) as follows:

191—81.3(514C) Postdelivery benefits. Every person issuing contracts under the scope of this chapter providing maternity benefits, which are not limited to complications of pregnancy, or newborn care benefits, shall not terminate inpatient benefits or require discharge of a mother or the newborn from a hospital following delivery earlier than determined to be medically appropriate by the attending physician after consultation with the mother and in accordance with the most recent edition of the Guidelines for Perinatal Care, ~~Third Edition, 1992~~, by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, which provide that when complications are not present, the postpartum hospital stay ranges from a minimum of 48 hours for a vaginal delivery to a minimum of 96 hours for a Cesarean birth, excluding the day of delivery. In accordance with those guidelines, in the event of a discharge from the hospital prior to the minimum stay established in the guidelines, a postdischarge follow-up visit shall be provided to the mother and newborn by providers competent in postpartum care and newborn assessment if determined medically appropriate as directed by the attending physician. Copies of this publication may be obtained through the Iowa Insurance Division, 1963 Bell Avenue, Suite 100, Des Moines, Iowa 50315, telephone (515)654-6600.

ITEM 43. Amend subrule 85.8(3) as follows:

85.8(3) If a navigator has provided an ~~e-mail~~ email address to the division, the division has the option to send information to the navigator through the ~~e-mail~~ email address rather than through the mail.

ITEM 44. Amend subrule 85.12(5) as follows:

85.12(5) A listing of subjects that could potentially be included on the navigator’s examination may be provided on the division’s ~~Web site at~~ http://www.iid.state.ia.us/ website.